

Employers may also be eligible for a tax credit. The Federal Work Opportunity Tax Credit is available for employers who hire individuals convicted of a felony, within one year of the individual's release from incarceration. Contact 1-800-482-2959.

### Remember...

When hiring an ex-offender, consider this list of questions:

- What is the relevance of the offense to the job being applied for?
- How long ago did the offense(s) occur? Research has demonstrated that after seven years of law abiding behavior, an individual with a criminal record has essentially the same risk of committing a new offense as a person who does not have a criminal record.
- How many times has the person been convicted of a crime?
- What is the nature/seriousness of the offense?
- What is the background to the offense? For example, were circumstances such as drug addiction or homelessness present?
- Was the offense work-related?
- What has the person done since being convicted of the offense? For example, while in prison or on probation was job training, treatment, education received?

Without support from the community nearly two-thirds of recent ex-offenders will return to prison.

### Suggestions

It is recommended that employers use a job application form in addition to resumes. An application ensures uniformity and that all needed information is collected. It may help employers from requesting and receiving impermissible information. It also provides employers with a place for applicants to sign certain necessary statements.

Include a statement on your form that criminal records do not automatically disqualify an applicant.

You may want to include a statement that falsification of any answers or any material omissions are grounds for discharge no matter when they are discovered.

You may require a release for a background check in the application process. Have each applicant sign a consent form, including a check for criminal records, past employment, and education.

If your firm outsources to a third-party vendor, then further requirements, including notice to applicants, may be required under the federal Fair Credit Reporting Act.

For more information: Michigan Talent Bank Services,  
Michigan Department of Labor & Economic Growth,  
Cadillac Place, 3032 W. Grand Blvd., Ste. 9-400, Detroit,  
Michigan 48202 (313)-456-3020  
[www.michigan.gov/talentbank](http://www.michigan.gov/talentbank)

**Michigan Department of Civil Rights**  
1-800-482-3604 (toll-free)  
TTY users: 1-877-878-8464

## Hiring People with Criminal Records

### *An Employer's Guide to Legal Rights and Responsibilities in Michigan*



## The Problem

In the United States there are approximately 7.3 million people under correctional supervision including 5.1 million supervised in the community on probation or parole. When arrest is taken into consideration, one quarter of the adult population in the US has a criminal history on file with state or federal governments. In the past decade, 11,000 to 15,000 offenders were released from penal institutions in Michigan. The majority were imprisoned for nonviolent offenses and/or were first time offenders.

Former prisoners face substantial barriers trying to find work. Stigma and bias are attached to criminal records. Many employers may not understand the laws related to hiring people with criminal records.

Moreover, because of the disproportionate number of minorities with arrest and conviction records, the U.S. Equal Employment Opportunity Commission precludes the use of arrest records as an absolute bar to employment and limits the use of records of conviction absent a business necessity. Employers must look at each case individually. Courts have held that the use of arrest records to disqualify job applicants constitutes unlawful discrimination.

## The Criminal Background Check

Employers may inquire about an applicant's criminal conviction record and, in some cases, arrest record. However, an employer should consider the relationship between an arrest or conviction and the applicant's fitness for a particular job. Criminal records should be a cause for rejection only if the nature and gravity of the offense(s), the time that has passed since the conviction and/or completion of the sentence, and the nature of the job held or sought would cause the applicant to be unsuitable for the position.

An employer must be consistent in conducting criminal background checks to avoid an inference of discrimination against a certain racial or ethnic group.

Certain positions such as childcare, education, healthcare, security, financial services, transportation and government, may be subject to laws and policies that preclude the hiring of people with certain criminal records.

Pursuant to the Fair Credit Reporting Act, criminal record checks may require a release and authorization from the applicant. If an employer makes an adverse decision, the employer must first give the individual the opportunity to see the report before denying or terminating employment.

Record information is highly sensitive and should be shared only with those who have a legitimate business reason to know that information.

## Misdemeanor Arrests and Expungement

Michigan law provides limited coverage to people with criminal records. The Elliott-Larsen Civil Rights Act prohibits employers from asking about or maintaining records concerning any misdemeanor arrests that did not result in conviction. MCL 37.2205a(1)

**Expungement:** Several Michigan statutes permit first-time felons to have their conviction records sealed or set aside, e.g., Holmes Youthful Trainee Act, MCL 762.22 et seq; Spouse Abuse Act, MCL 769.4; first time drug users, MCL 333.7411; setting aside a conviction, MCL 780.621 et seq. With the exception of law enforcement agencies, it is not unlawful or a misrepresentation to withhold information of criminal activity for which the records have been sealed or expunged. Misdemeanor arrests and

expunged or sealed convictions may appear on background checks.

## Benefits to Hiring Ex-offenders

**Crime Reduction:** Getting a job is crucial to successful re-integration of ex-offenders into society and to the promotion of public safety through crime reduction.

**Cost Reduction:** The annual cost of incarceration in Michigan is about \$35,000 per prisoner. The annual budget for Michigan Department of Corrections is over \$2 billion.

**Loyal workforce:** Ex-offenders tend to be loyal to employers who are willing to hire them. Many are truly changed by being in prison. They have a much greater chance of succeeding on the outside when society is willing to accept them.

**Employer Benefits:** Most recent ex-offenders are under the supervision of a parole or probation officer who can also be a contact person and resource for an employer. The officer can help



address obstacles to employment, such as transportation and counseling. Many ex-offenders have access to job readiness and skills training.

The Federal Bonding Program provides employers with insurance coverage, at no cost to the employer as an incentive to hire hard to place applicants. See [michigan.gov/mdcd/0,1607,7-122-1678\\_28031---00.html](http://michigan.gov/mdcd/0,1607,7-122-1678_28031---00.html).